

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

BRIAN MALTA and VALERIE MALTA,

Plaintiffs,

v.

RICHARD E. SLAGLE, et. al.,

Defendants.

DECISION & ORDER
05-CV-342S

1. Following the return of the Jury's verdict on June 23, 2008, Defendants' Counsel requested 30 days to make post-trial motions.

2. Federal Rule of Civil Procedure 50(b) provides that a renewed motion for judgment as a matter of law must be made no later than 10 days after judgment is entered. Judgment was entered in this case on June 24, 2008. Rule 6(a) directs that in calculating periods of time less than 11 days, the Court shall exclude Saturdays, Sundays, and legal holidays. Accordingly, Defendants must file their motion no later than Wednesday, July 9, 2008.

3. This Court does not have discretion to extend the time for Defendants to file a post-trial motion. See Fed.R.Civ.P. 6(b)(2) ("A court must not extend the time to act under Rules 50(b) and (d), 52(b), 59(b), (d), and (e), and 60(b), except as those rules allow."). The 10-day time limitation is jurisdictional, and "failure to make a timely motion divests the district court of power to modify the trial verdict." Rodick v. City of Schenectady, 1 F.3d 1341, 1346 (2d Cir. 1993).

4. Defendants are therefore directed to file any post-trial motions no later than Wednesday, July 9, 2008. Defendants are further instructed that this Court lacks the

authority to extend the deadline for filing a notice of appeal, and that nothing in this order should be construed to extend that deadline.

5. In the event that Defendants file a post-trial motion, Plaintiffs' response will be due 10 days from the filing of Defendants' motion. See Fed.R.Civ.P. 59(c).

SO ORDERED.

Dated: June 24, 2008
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge